

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION**

<b>C. AND C.S., FOR THEIR MINOR DAUGHTER H.S.</b>	§	
<b>Plaintiffs</b>	§	
	§	
	§	
<b>v.</b>	§	<b>C.A. NO. 1:09-cv-374</b>
	§	
	§	
<b>SILSBEE INDEP. SCH. DIST., SUP'T. RICHARD BAIN, JR., PRIN. GAYE LOKEY, SISSY MCINNIS, DAVID SHEFFIELD, CHRISTIAN ROUNTREE, and RAKHEEM BOLTON</b>	§	
<b>Defendants.</b>	§	
	§	

**RESTATED MOTION FOR ATTORNEY FEES AND COSTS**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, Gaye Lokey and Sissy McInnis, two of the Defendants in the cause above-numbered and styled, and make and file this their Restated Motion for Attorney Fees and Costs, and would show the following:

1. By signed order on October 7, 2009, the Court granted the motions to dismiss, with prejudice, of Defendants David Sheffield; Silsbee ISD and Richard Bain, Jr.; Gaye Lokey and Sissy McInnis; and declined to exercise supplemental jurisdiction over Plaintiff H.S.' state law claims against Bolton and Rountree.

2. Previously, on August 7, 2009, Defendants Gaye Lokey and Sissy McInnis had filed their Restated Motion for Attorney Fees and Costs, with proposed Order. The restated motion accompanied the filing of these Defendants' Motion to Dismiss.

3. Authority for granting prevailing Defendants attorney fees and costs is set out in 42 U.S.C. § 1988, in that Plaintiffs' original and first amended complaints have now been determined to be frivolous, unreasonable, and without foundation or merit. *Christiansburg Garment Co. v. Equal Opportunity Commission*, 434 U.S. 412, 422 (1978); accord: *Hughes v. Rowe*, 449 U.S. 5 (1980). See also *Canady v. Bossier Parish School Board*, 240 F. 3d 437 (5<sup>th</sup> Cir., 2001).

4. Attached hereto and incorporated by reference is these Defendants' affidavit for attorney fees and costs.

WHEREFORE PREMISES CONSIDERED, Defendants Gaye Lokey and Sissy McInnis pray that, based on the Court's findings and conclusions in its Order signed October 7, 2009, in which Defendants Gaye Lokey and Sissy McInnis were determined to have prevailed, and that Plaintiffs' claims against these defendants are frivolous, unreasonable, and without foundation or merit, that they each of them be awarded reasonable attorney fees and costs of court from these Plaintiffs in the amounts indicated in the attached affidavit.

Respectfully submitted,

ROACH & NEWTON, L.L.P.  
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By: /s/ John W. Newton, III  
John W. Newton III  
Texas State Bar No. 14983300

ATTORNEY FOR DEFENDANTS  
GAYE LOKEY AND SISSY MCINNIS

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing instrument was properly mailed to all counsel of record by:

- United States Mail, postage prepaid and sealed;
- United States Certified Mail, return receipt requested;
- hand-delivery;
- Federal Express;
- facsimile;
- eFile

on this the 3<sup>rd</sup> day of November, 2009.

*/s/ John W. Newton, III*  
John W. Newton III